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9 **BEFORE THE**
10 **RESPIRATORY CARE BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. R-2083

13 SHARI SULLIVANT

23641 Palomino Drive

14 Diamond Bar, California 91765

A C C U S A T I O N

15 Respiratory Care Practitioner License No. 1772

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Respiratory Care Board of California (Board),
22 Department of Consumer Affairs.

23 2. On or about May 10, 1985, the Board issued Respiratory Care Practitioner
24 License Number 1772 to Shari Sullivan (Respondent). This license expired on August 31, 2006,
25 and has not been renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board under the authority of the
28 following laws. All section references are to the Business and Professions Code (Code) unless

1 otherwise indicated.

2 4. Section 3710 of the Code states: “The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
4 8.3, the Respiratory Care Practice Act].”

5 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7 6. Section 3750 of the Code states:

8 “The board may order the denial, suspension or revocation of, or the imposition of
9 probationary conditions upon, a license issued under this chapter, for any of the following
10 causes:

11 “ . . .

12 “(d) Conviction of a crime that substantially relates to the qualifications,
13 functions, or duties of a respiratory care practitioner. The record of conviction or a
14 certified copy thereof shall be conclusive evidence of the conviction.

15 “ . . .

16 “(j) The commission of any fraudulent, dishonest, or corrupt act which is
17 substantially related to the qualifications, functions, or duties of a respiratory care
18 practitioner.

19 “ . . . ”

20 7. Section 3752 of the Code states:

21 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
22 made to a charge of any offense which substantially relates to the qualifications,
23 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
24 the meaning of this article. The board shall order the license suspended or revoked, or
25 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
26 conviction has been affirmed on appeal or when an order granting probation is made
27 suspending the imposition of sentence, irrespective of a subsequent order under Section
28 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to

1 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
2 accusation, information, or indictment.”

3 8. California Code of Regulations, Title 16, section 1399.370, states:

4 “For the purposes of denial, suspension, or revocation of a license, a crime or act
5 shall be considered to be substantially related to the qualifications, functions or duties of
6 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
7 perform the functions authorized by his or her license or in a manner inconsistent with the
8 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
9 those involving the following:

10 “ . . .

11 “(b) Conviction of a crime involving fiscal dishonesty theft, or larceny.

12 “ . . .”

13 9. Section 118 of the Code states:

14 “ . . .

15 “(b) The suspension, expiration, or forfeiture by operation of law of a license
16 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
17 of the board or by order of a court of law, or its surrender without the written consent of
18 the board, shall not, during any period in which it may be renewed, restored, reissued, or
19 reinstated, deprive the board of its authority to institute or continue a disciplinary
20 proceeding against the licensee upon any ground provided by law or to enter an order
21 suspending or revoking the license or otherwise taking disciplinary action against the
22 licensee on any such ground.

23 “(c) As used in this section, ‘board’ includes an individual who is authorized by
24 any provision of this code to issue, suspend, or revoke a license, and ‘license’ includes
25 ‘certificate,’ ‘registration,’ and ‘permit.’”

26 COST RECOVERY

27 10. Section 3753.5, subdivision (a) of the Code states:

28 "In any order issued in resolution of a disciplinary proceeding before the board,

1 the board or the administrative law judge may direct any practitioner or applicant found to
2 have committed a violation or violations of law to pay to the board a sum not to exceed
3 the costs of the investigation and prosecution of the case."

4 11. Section 3753.7 of the Code states:

5 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
6 include attorney general or other prosecuting attorney fees, expert witness fees, and other
7 administrative, filing, and service fees."

8 12. Section 3753.1, subdivision (a) of the Code states:

9 "An administrative disciplinary decision imposing terms of probation may
10 include, among other things, a requirement that the licensee-probationer pay the monetary
11 costs associated with monitoring the probation."

12 FIRST CAUSE FOR DISCIPLINE

13 (Conviction of a Crime)

14 13. Respondent is subject to disciplinary action under sections 3750,
15 subdivision (d), and 3752 of the Code, and California Code of Regulations, Title 16, section
16 1399.370, subdivision (b), in that she was convicted of a crime substantially related to the
17 qualifications, functions or duties of a respiratory care practitioner. The circumstances are as
18 follows:

19 A. Between on or about February 2, 2004, and May 26, 2004, Respondent
20 unlawfully took checks, cash, and a coin collection of a value exceeding \$400.00, which
21 belonged to the victim and the victim's husband. Between on or about February 4, 2004,
22 and May 25, 2004, Respondent conducted monetary transactions through a financial
23 institution which involved the victim's checks, Citibank Official checks, and Fidelity
24 checks in amounts exceeding \$5,000.00 which were derived from criminal activity.
25 Between on or about February 4, 2004, and May 25, 2004, Respondent signed a fictitious
26 name to the victim's checks which were made out to "Cash," "Shari Sullivant" and
27 "Registered Solutions" in various amounts from \$600.00 to \$20,000.00. Between on or
28 about February 13, 2004, and May 20, 2004, Respondent forged the victim's checks

1 which were made out to “Shari Sullivant,” “Cash,” “Cash Shari Sullivant” and “James
2 Toreson” in various amounts from \$1,200.00 to \$22,000.00.

3 B. On or about August 19, 2004, in Los Angeles County Superior Court
4 Complaint No. SA053601, Respondent was charged with grand theft by embezzlement,
5 in violation of Penal Code section 487(a), a felony (Count 1), with the special allegation
6 of taking property of a value exceeding \$50,000.00, within the meaning of Penal Code
7 section 12022.6(a).

8 C. On or about April 18, 2006, in Los Angeles County Superior Court
9 Information No. SA053601, Respondent was charged with grand theft of property over
10 \$400.00, in violation of Penal Code section 487(a), a felony (Count 1); conducting a
11 criminal transaction involving a monetary instrument exceeding \$5,000.00, in violation of
12 Penal Code section 186.10(a), a felony (Counts 2, 14, 17, 20, 22, 27, 28, 33 and 34);
13 forgery by signing the name of another, in violation of Penal Code section 470(a), a
14 felony (Counts 3-6, 15, 21, 23-25, 29-31 and 35-39); and forgery by altering a check, in
15 violation of Penal Code section 470(d), a felony (Counts 7-13, 16, 18, 19, 26 and 32). All
16 of the Counts included the special allegation of taking property of a value exceeding
17 \$150,000.00, within the meaning of Penal Code section 12022.6(a)(2).

18 D. On or about September 1, 2006, pursuant to a negotiated plea agreement,
19 Respondent was convicted upon her plea of nolo contendere to grand theft (Count 1).
20 She admitted the special allegation of taking property exceeding \$150,000.00.

21 E. On or about September 12, 2006, Respondent was placed on probation for
22 five years on a number of terms and conditions, among others: serve 1 day in county jail
23 (with credit for 1 day), perform 100 hours of community service, make restitution to the
24 victim in the amount of \$224,000.00 and pay a restitution fine in the amount of \$200.00.
25 Pursuant to the negotiated plea agreement, Counts 2-39 of the information were
26 dismissed.

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